
(2013) 06 AP CK 0107

In the Andhra Pradesh High Court

Case No : Civil Revision Petition No. 3087 of 2004

State of A.P.

APPELLANT

Vs

Mummareddy Krishna Venamma, Uchuru Narayana Reddy
and Uchuru Venkata Subbamma (died)

RESPONDENT

Date of Decision : 19-06-2013

Acts Referred:

Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 — Section 21
Civil Procedure Code, 1908 (CPC) — Order 47 Rule 1

Citation : (2013) 4 ALD 716 : (2013) 6 ALT 426

Hon'ble Judges : A. Rajasheker Reddy, J

Bench : Single Bench

Advocate : P. Sridhar Reddy for the Respondent No. 1, for the Respondent

Final Decision : Disposed Off

Judgement

A. Rajasheker Reddy, J.—This Civil Revision Petition is filed by the State, u/s 21 of the A.P. Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 (for short "the Act"), against order, dated 20.06.2002, made in I.A. No. 903 of 2001 in L.R.A. No. 8 of 1994 on the file of the Land Reforms Appellate Tribunal-cum-I Addl. District & Sessions Court, Nellore (LRAT) wherein the LRAT allowed the review petition filed by the 1st respondent herein, under Order XLVII Rule 1 of the Code of Civil Procedure, 1908 (for short "CPC"). The brief facts that are necessary for disposal of this revision are as follows:

One Uchuru Narayana Reddy and Uchuru Balarami Reddy filed declarations in C.C. Nos. 1511 and 1517 of GDR/1975 respectively before the Authorised Officer, Nellore under the Act. As per the enquiry conducted therein, they had to surrender Ac. 1.93 cents of land to the Government. It is the case of the 1st respondent that she purchased Acs. 6.50 cents of land at Muttembaka Village on 14.09.1989 under a registered Sale Deed bearing No. 612/89. The concerned authorities selected Ac. 1.93 cents out of the land purchased by the 1st

respondent towards surrender of the surplus land holdings of the declarants. Therefore, the 1st respondent filed objections before the authority and the same was dismissed. Questioning the same, the 1st respondent preferred the afore-stated L.R.A. No. 8 of 1984. The LRAT dismissed the appeal, by order, dated 17.01.2001, holding that the sale deed in favour of the 1st respondent is void and she failed to avail the opportunity of being heard given to her and, hence, the Government has got every right to take possession of the property in question. Being aggrieved by the same, the 1st respondent filed I.A. No. 903 of 2001 with a prayer to review the said order contending that the LRAT has not considered the Rule 7(5) of the A.P. Land Reforms Rules, 1974 (for short "the Rules"). Counter was filed by the revision petitioner contending that the review petition is not maintainable and the only remedy for the 1st respondent is to file a revision before this Court.

2. The LRAT allowed the IA by order dated 20.06.2002 holding that Rule 7(5) of the Rules is not considered by it earlier and that Rule has to be followed and directed the lower Tribunal to take possession of the extent which is in proportion to the extent of the land which was purchased and which is in possession of the 1st respondent out of the total lands sold away by the declarants to different alienees. Challenging the same, the State preferred this revision.

3. Learned Government Pleader for Ceiling/Arbitration appearing for the revision petitioner contended that the LRAT has no power of review, as neither the Act nor the Rules made thereunder confer power of review on it. He further contended that the power of review should be specifically conferred by a statute, otherwise, the LRAT cannot exercise the power of review. He relied on the decisions of this Court in N. Buchamma and Others Vs. Authorised Officer (Land Reforms), and Manchiraju Ramakrishna Paramahamsa V. The State of A.P. rep. by the Secretary, Revenue Department, Government of Andhra Pradesh, Hyderabad and another 1979 (2) APLJ 50 wherein this Court by relying on the judgment of the Apex Court in Patel Narshi Thakershi and Others Vs. Shri Pradyumansinghji Arjunsinghji,) held that the power of review is not an inherent power and it must be conferred by Law either specifically or by necessary implication and that there is no provision in the Act from which it can be gathered that the Tribunals under the Act can review their own orders.

4. On the other hand, learned counsel for the 1st respondent submitted that while taking surrender, Rule 7(5) of the Rules has to be taken into account regarding the proportionate surrender from different alienees, but the LRAT in the first instance has not considered this aspect in the order passed by it on 17.01.2001, as such, the same is erroneous and the same was rightly reviewed by it by order dated 20.06.2002 as per Rule 7(5) of the Rules, passed in I.A. No. 903 of 2001, as such, no error is committed by the LRAT.

5. The short question that arises for consideration in this revision is whether the LRAT has power to review its own order under Order XLVII Rule 1 of CPC.

6. In Buchamma case (1 supra), this Court held as follows:

There is no provision under the Act or in the Rules framed under the Act providing for review of an order made by the authorities under the Land Reforms Act which has attained finality. It is settled position in law by a series of decisions of the Apex Court and the High Courts that an Authority or a Tribunal functioning under a statute cannot review its own order unless such a power of review is specifically conferred upon them by a specific provision of the statute concerned. In that view of the matter, the present claim of the revision petitioners seeking review of the order of the Land Reforms Appellate Tribunal dated 29.06.1979 is totally incompetent and the Land Reforms Tribunal has no jurisdiction.

7. In Manchiraju Ramakrishna Paramahamsa case (2 supra), this Court held as under:

The power of review is not an inherent power. It must be conferred by a statute. There is no provision in the Act from which it can be gathered that the Tribunals under the Act can review their own orders.

8. Neither the A.P. Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 nor the Rules made thereunder provide any provision conferring the power of review on the Land Reforms Appellate Tribunal. Since the power of review is not an inherent power and the Act and the Rules made thereunder do not provide for the same and the above decisions relied on by the learned Government Pleader are to the same effect, I am of the view that the order impugned in this revision is without jurisdiction and is liable to be set aside.

9. Though the learned counsel for the 1st respondent is right in contending that the LRAT had not considered the Rule 7(5) of the Rules while disposing of L.R.A. No. 8 of 1994, but that cannot be a ground for reviewing its earlier order, as no power of review is conferred on it.

10. Accordingly, the Civil Revision Petition is allowed by setting aside the order, dated 20.06.2002, made in I.A. No. 903 of 2001 in L.R.A. No. 8 of 1994 on the file of the Land Reforms Appellate Tribunal-cum-I Addl. District & Sessions Court, Nellore. However, it is open for the 1st respondent to avail the remedies available under the Act. There shall be no order as to costs. As a sequel, miscellaneous petitions, if any, pending in the civil revision petition shall stand disposed of.